



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2015-0801; A-1-FRL-9946-94-Region 1]

Air Plan Approval; ME; Control of Volatile Organic Compound Emissions from Fiberglass Boat Manufacturing and Surface Coating Facilities

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of Maine. These revisions establish Reasonably Available Control Technology (RACT) requirements for reducing volatile organic compound (VOC) emissions from fiberglass boat manufacturing and surface coating operations. The intended effect of this action is to approve these requirements into the Maine SIP. This action is being taken in accordance with the Clean Air Act.

DATES: This direct final rule will be effective **[Insert date 60 days after date of publication in the Federal Register]**, unless EPA receives adverse comments by **[Insert date 30 days after date of publication in the Federal Register]**. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R01-OAR-2015-0801 at <http://www.regulations.gov>, or via email to Mackintosh.David@epa.gov. For comments

submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: David L. Mackintosh, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square - Suite 100, (Mail code OEP05-2), Boston, MA 02109-3912, tel. 617-918-1584, fax 617-918-0668, email Mackintosh.David@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

- I. What Action is EPA Taking?
- II. What is the Background for this Action?
- III. What is Included in Maine's Submittals?
- IV. EPA's Evaluation of Maine's Submittals.
- V. Final Action.
- VI. Incorporation by Reference.
- VII. Statutory and Executive Order Reviews.

I. What Action is EPA Taking?

EPA is approving Maine's Chapter 162, "Fiberglass Boat Manufacturing Materials," submitted on July 1, 2014, to address EPA's Control Techniques Guidelines (CTG) for Fiberglass Boat Manufacturing Materials (EPA-453/R-08-004, September 2008). EPA is also approving Maine's revised Chapter 129, "Surface Coating Facilities," submitted on August 18, 2015, to address EPA's CTG for Miscellaneous Metal and Plastic Parts Coatings (EPA-453/R-08-003, September 2008). These two Maine regulations implement RACT for the applicable facility operations. Lastly, EPA is approving Maine's negative declarations for two CTGs, Automobile and Light-Duty Truck Assembly Coatings (EPA-453/R-08-006, September 2008) and Large Appliance Coatings (EPA-453/R-07-004, September 2007), which were submitted on April 23, 2013.

II. What Is the Background for this Action?

Maine is part of the Ozone Transport Region (OTR) under Section 184(a) of the CAA. Sections 182(b)(2) and 184 of the CAA compel states with moderate and above ozone nonattainment areas, as well as areas in the OTR, respectively, to submit a SIP revision requiring the implementation of RACT for sources covered by a CTG and for all major sources. A CTG is a document issued by EPA which establishes a “presumptive norm” for RACT for a specific VOC source category.

On October 9, 2007, EPA issued three CTGs, including the CTG for Large Appliance Coatings, which states were required to address by October 9, 2008 (72 FR 57215). Then on October 7, 2008, EPA issued four CTGs including Miscellaneous Metal and Plastic Parts Coatings, Fiberglass Boat Manufacturing Materials, and Automobile and Light-Duty Truck Assembly Coatings, which states were required to address by October 7, 2009 (73 FR 58841).

III. What is Included in Maine’s Submittals?

On April 23, 2013, Maine submitted a SIP revision to EPA containing negative declarations for two CTG source categories: Automobile and Light-Duty Truck Assembly Coatings and Large Appliance Coatings. Negative declarations include a statement that no sources subject to the requirement in question are located in the state; thus the state need not adopt a regulation based on a CTG that otherwise would apply to such sources. Then on July 1, 2014, Maine submitted a SIP revision to EPA containing a new regulation, Maine’s Chapter 162, “Fiberglass Boat Manufacturing Materials,” to address the CTG of the same name. Lastly, on August 18, 2015, Maine submitted revised Chapter 129, “Surface Coating Facilities,” to address EPA’s Miscellaneous Metal and Plastic Parts Coatings CTG.

IV. EPA's Evaluation of Maine's Submittals.

Maine's new Chapter 162, "Fiberglass Boat Manufacturing Materials," is consistent with the recommendations for RACT found in EPA's CTG for Fiberglass Boat Manufacturing Materials. This new regulation is effective on July 30, 2013, and applies to fiberglass boat manufacturing operations that have, before controls, combined actual emissions of 5,400 pounds of VOC or more, per rolling 12-month period, from the use of gel coats, resins, and materials used to clean application equipment. Applicable facilities for which construction commenced prior to the effective date of the rule, must comply within 36 months after the effective date of the rule or upon initial startup, whichever is later, and facilities for which construction commenced on or after the effective date of the rule must comply upon their initial startup. Specifically, the rule applies to facilities that manufacture hulls or decks of boats from fiberglass but not to facilities that solely manufacture parts of boats such as hatches, seats, or lockers. Sources subject to the rule must meet specific VOC content limits for resin and gel coat operations such as open molding, mixing and cleaning application equipment. Facilities may meet these limits by implementing one of the following prescribed techniques: use of low-VOC content materials; averaging the VOC content of materials to meet low-VOC content standards; and/or the installation and operation of pollution control devices. Maine's rule has the same VOC content limits as the CTG and also includes the appropriate recordkeeping, reporting, and testing requirements to ensure these emission limits are enforceable. The new regulation also specifies work practices to reduce VOC emissions during the application, storage, mixing, and conveyance of coatings, resins, and cleaning materials.

Maine's Chapter 129, "Surface Coating Facilities," was previously approved by EPA on May 22, 2012 (77 FR 30216). The revised rule has been expanded to include the coating of plastic parts and products and to include additional coating categories for the coating of miscellaneous metal parts and products. The amendments provide for five major surface coating categories with numerous subcategories in each to further identify which coatings are subject to a specific VOC emission limit. The emissions limits may be achieved by using one or more of three compliance methods: low solvent content coating technology; daily-weighted averaging of emission limitations; and installation and operation of an add-on air pollution control device with 95% capture and control efficiency. Maine's Chapter 129 also includes the appropriate recordkeeping, reporting, and testing requirements to ensure these emission limits are enforceable.

The new coating limits generally follow the recommendations in EPA's CTG for Miscellaneous Metal and Plastic Parts Coating, with the exception of three coating categories which, as explained below, does not render the rule as a whole less stringent than the rule previously approved by EPA into the Maine SIP. Maine adopted higher coating limits for Pleasure Craft Surface Coating than the CTG for Extreme High Gloss Topcoat, Other Substrate Antifoulant Coating, and Antifouling Sealer/Tie Coating. For these three categories, Maine reviewed industry data and determined that for purpose of functionality, cost, and VOC emissions, the alternative limits adopted for these three coating categories constitute RACT. Maine's approach is consistent with the EPA guidance memorandum, entitled "Control Technique Guidelines for Miscellaneous Metal and Plastic Part Coatings—Industry Request for Reconsideration," from Stephen Page to Air Branch Chiefs, Regions I-X, dated June 1, 2010. Although some of the

miscellaneous metal parts and products specialty coatings limits in Maine's revised Chapter 129 are higher than the limits that had been previously approved into the Maine SIP, the more frequently used General One Component and General Multi Component coating limits for metal parts are lower than the previous SIP-approved general category limit for metal parts referred to as "All Other Coatings." In addition, the revised rule's applicability is much broader. Thus, the revised rule satisfies the anti-back sliding requirements in Section 110(l) of the CAA because, the rule as whole will achieve an equal or greater amount of VOC reductions as compared to the rule previously approved into the SIP. This analysis is also consistent with the EPA guidance memorandum entitled "Approving SIP Revisions Addressing VOC RACT Requirements for Certain Coating Categories," dated March 17, 2011.

Maine also submitted negative declarations for two CTGs: Automobile and Light-Duty Truck Assembly Coatings and Large Appliance Coatings. Maine staff reviewed the inventory of sources for facilities with North American Industrial Classification System (NAICS) codes that correspond to these source categories, interviewed its field and compliance staff, and searched telephone and business directories to determine if any sources meeting the applicability requirements of these two CTGs are located in Maine. After thoroughly reviewing all available information, Maine determined that there were no sources meeting the applicability thresholds for these two source categories.

As discussed above, Maine's new Chapter 162 and revised Chapter 129 are consistent with the relevant CTGs with the exception of certain limited provisions that do not result in greater emissions of VOCs than otherwise would be the case. Therefore, EPA has concluded that Maine

has met the CAA RACT requirement for the Fiberglass Boat Manufacturing Materials and the Miscellaneous Metal and Plastic Parts Coatings CTG source categories. In addition, Maine's method for arriving at the negative declarations for EPA's Automobile and Light-Duty Truck Assembly Coatings CTG and EPA's Large Appliance Coatings CTG is reasonable and EPA believes that the declarations are accurate. Therefore, EPA has concluded that Maine has also met the CAA RACT requirement for these two CTG source categories.

V. Final Action

EPA is approving, and incorporating into the Maine SIP, Maine's new Chapter 162, "Fiberglass Boat Manufacturing Materials," and Maine's revised Chapter 129, "Surface Coating Facilities," as meeting RACT for the Fiberglass Boat Manufacturing and the Miscellaneous Metal and Plastic Parts Coatings CTG source categories, respectively. Additionally, EPA is approving Maine's negative declarations for two CTG source categories: Automobile and Light-duty Truck Assembly Coatings and Large Appliance Coatings.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective **[Insert date 60 days from date of publication in the Federal Register]** without further notice unless the Agency receives relevant adverse comments by **[Insert date 30 days from date of publication in the Federal Register]**.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on **[Insert date 60 days from date of publication in the Federal Register]** and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

VI. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Maine DEP regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available electronically through <http://www.regulations.gov>.

VII. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely

approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule

does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 11, 2016.

H. Curtis Spalding,
Regional Administrator,
EPA New England.

Therefore, 40 CFR Part 52, chapter I is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart U - Maine

2. Amend § 52.1020 by:

- a. In paragraph (c), table, revising the entry for “Chapter 129”, and adding a new entry “Chapter 162” in numerical order; and
- b. In paragraph (e), table, adding a new entry at the end of the table.

The revisions and additions read as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) EPA approved regulations.

EPA-APPROVED MAINE REGULATIONS

State citation	Title/Subject	State effective date	EPA Approval Date EPA approval date and citation ¹	Explanations
**	*	*	*	**
Chapter 129	Surface Coating Facilities	7/7/2015	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	Added requirements for metal parts and plastic parts coating operations.
**	*	*	*	**
Chapter 162	Fiberglass Boat Manufacturing Materials	7/30/2013	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
**	*	*	*	**

¹ In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

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(e) Nonregulatory.

MAINE NON REGULATORY

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date ³	Explanations
**	*	*	*	**
Negative Declarations for Large Appliance Coatings and Automobile and Light-Duty Truck Assembly Coatings Control Technique Guidelines.	Maine Statewide	4/23/2013	[Insert Federal Register date of publication date] [Insert Federal Register citation]	

³ In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

[FR Doc. 2016-12398 Filed: 5/25/2016 8:45 am; Publication Date: 5/26/2016]